
NORTH AYRSHIRE COUNCIL

6th December 2023

Licensing Committee

Title:	Public Charitable Collections
Purpose:	To inform the Committee of the legislation and current North Ayrshire Council Policy
Recommendation:	That the Committee should review the Policy

1. Executive Summary

- 1.1 This Report sets out the legal and policy framework under which the Council grants Permissions for Public Charitable Collections.

2. Background

- 2.1 Under Section 119 of the Civic Government (Scotland) Act 1982 a person who wishes to organise a “Public Charitable Collection” requires to apply for a “Permission” from the Council at least one month in advance, unless a statutory exception applies.
- 2.2 This “Permission” is granted under different rules from the “Licences” granted to Taxi Drivers, Street Traders or the many other activities covered by the 1982 Act, unless an exception applies.
- 2.3 The legislation only refers to the collection of money, for example using collection tins. There is no need for a Council “Permission” to invite donors to sign Direct Debit mandates.

A Council Permission is not needed if:

- [a] the collection takes place in the course of a public meeting,
 - [b] the collection takes place by an unattended receptacle kept in a fixed position in a public place, or
 - [c] the Organiser is an “Exempt Promoter” (see below).
- 2.4 The Office of the Scottish Charity Regulator keeps a list of major national charities:

<https://www.oscr.org.uk/managing-a-charity/fundraising/exempt-promoters-list>

These are "Exempt Promoters". They do not need to get Permissions from Councils, but they have to tell whichever Council they plan to collect in at least 3 months in advance. The effect of them doing this is to entitle (but not oblige) the Council to refuse local collectors.

- 2.5 The only consultation the Council carries out is to ask the Police if the Organiser has relevant criminal convictions. In theory the Police could make representations that the particular proposal would cause a nuisance but in fact never do.
- 2.6 There is no fee and the Council administers the applications for Permission, including consultation with the Police, for free. Occasionally Applications call before Licensing Committee meetings, for example in 2017 the Committee had to deal with 4 separate Organisers wishing to collect in the same town on the same day. Applications sometimes call at the Committee where the Application is outside Committee Policy (see below).
- 2.7 There are Regulations made in 1984 dealing with the rules about the arrangements for collections, the ages of collectors, and accounts to be given to the Council afterward. These Regulations distinguish between:
 - (a) 'House-to-House Collections': 'a collection made by going from house to house and soliciting contributions from the occupants thereof' ("house" includes a place of business); the minimum age of the collectors is 16;
 - (b) 'Street Collections': 'a collection made by soliciting contributions from passers-by in a public place'; the minimum age of the collectors is 14.
- 2.8 The Council is entitled (not obliged) to refuse a Permission on a number of grounds:
 - (a) that the date, time, frequency or area of the collection would cause undue public inconvenience;
 - (b) that another collection either conducted by an Exempt Promoter or another Organiser is already due to take place on the same or a proximate day;
 - (c) that the Council consider that the share of proceeds to be applied for Charitable Purposes is inadequate; or
 - (d) that the Organiser has been convicted of offences relating to charities or other dishonesty offences;
 - (e) that the commission of such offences could be facilitated by the Permission.

If granting, the Council can also attach conditions (the Regulations also impose national requirements).

- 2.9 North Ayrshire Council's Policy takes account of the potential grounds of refusal:
 - (a) "House-to-House Collections" are only permitted Monday to Friday;
 - (b) "Street Collections" are only permitted on Saturday;
 - (c) only one of each is allowed on a particular day in a particular town or village;
 - (d) Neither is permitted on Sunday;

- (e) Neither is permitted after 18.00 (due to a Committee decision of 20 March 2012, following a public complaint of collectors calling at a person's home late at night).

2.10 Due to the policy, the Application form used by North Ayrshire Council asks the Organiser to identify:

- the proposed town or village, and
- the first preference date, second preference date, and third preference date.

2.11 The Permission is granted if there is, for that town or village and the first preference date, no Public Charitable Collection which is either:

- proposed by an "Exempt Promoter" or
- already covered by a Permission granted to another Organiser.

If necessary the second preference date or the third preference date are considered.

As with any other policy, exceptions to the policy can be made by Committee, e.g. to allow a "Street Collection" on a day other than Saturday.

2.12 The 1982 Act continues to regulate collections. Section 119 will be replaced by provisions of the Charities and Trustee Investment (Scotland) Act 2005 ('Public benevolent collections') and there will be a procedure for 'Local Authority Consents' (2005 Act, Section 86). However the new system is not in operation. The detailed regulations which a new system would need have not been drafted or made by the Scottish Government.

3. Proposals

3.1 The Policy might be amended so that any number of Organisers could apply for Permissions:

- (a) whether "House-to-House Collections" or "Street Collections" on any day of the week, including Sundays, and
- (b) regardless of whether or not an Exempt Promoter has notified an intention to collect;
- (c) regardless of whether or not another Organiser has requested or been granted a Permission for the same date and the same town or village.

4. Implications/Socio-economic Duty

Financial

4.1 The Organiser pays no fee.

Human Resources

4.2 Staff and Committee time is expended administering the system. If the Policy is changed as suggested then it will be easier and quicker to do so.

Legal

- 4.3 The Organiser has a right of appeal to the Sheriff if the Council refuses Permission, but there has never been an appeal in North Ayrshire.

Equality/Socio-economic

- 4.4 None

Climate Change and Carbon

- 4.5 None

Key Priorities

- 4.6 Making it easier to obtain a Public Charitable Collection Permission helps progress towards one of the four Priorities in the North Ayrshire Council Plan 2023-28, as one of the "Key Activities" in the "Communities and Local Democracy" Priority is "Providing support for community organisations in achieving their goals, including as Community Wealth Building anchor organisations."

Community Wealth Building

- 4.7 None

5. Consultation

- 5.1 No consultation is required. The only consultee with individual requests for Public Charitable Collection Permissions is Police Scotland.

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For further information please contact **William O'Brien, Solicitor (Licensing)**, on **wobrien@north-ayrshire.gov.uk**.

Background Papers

None